In the High Court of Punjab and Haryana at Chandigarh.

Regular Second Appeal No.3621 of 2006.

Date of decision:26.9.2006.

Dalip Singh.

...Appellant.

Versus

State of Haryana and another.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr. R.M. Singh Advocate for the appellant.

...

Judgment.

S. N. Aggarwal, J.

Dalip Singh appellant had filed the suit for permanent injunction against the respondents alleging that he was the owner in possession of suit land measuring 5 Kanals 5 Marlas comprised in Khewat No.256, Khatauni No.;272 Min, Rectangle No.19, Killa No.8/1 (5-5). The respondents are intending to make Pucca road over the Rasta but in the process of making the road, the respondents are intending to carve out the said road by encoraching upon part of suit land illegally, forcibly and without any legal right,title or interest.

The version of the respondents, on the other hand, was that

the State of Haryana has already constructed the road in the year 1972 which was made on the consolidated path. Father of Dalip Singh was the Sarpanch/Panch of that panchayat and he voluntarily offered his land for carving out the road and the road was carved from the land of the father of the appellant. Hence, dismissal of the suit was prayed.

Issues were framed.

The parties led the evidence.

The learned trial Court dismissed the suit vide judgment and decree dated 2.1.2004.

The appellant filed an appeal. The learned Lower Appellate Court up-held the findings of fact recorded by the learned trial Court and dismissed the appeal vide judgment and decree dated 29.4.2004.

Hence, the present appeal.

The submission of learned counsel for the appellant was that the respondents had no right to construct the road in the land of the appellant. It was also submitted that the land was owned by Chhoti and it was inherited by the appellant. The father of the appellant had no right to surrender the land to the respondents.

These submissions have been considered.

Suit for permanent injunction is not maintainable for the simple reason that the respondents have already constructed the road. Secondly, the construction of road cannot be stopped. At the most, if the appellant is interested, he can claim damages/compensation as per law in the proper forum. Concurrent findings of fact have been

recorded by the Courts below and this Court finds no reason to disturb the said findings of fact.

No merit.

Dismissed.

September 26,2006. (S. N. Aggarwal)
Jaggi Judge